IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No.18990 of 2005

For Approval and Signature:
HONOURABLE MR.JUSTICE D.A.MEHTA Sd/-

HONOURABLE MS.JUSTICE H.N.DEVANI Sd/-

==========

1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

==========

SHREE YOGI STEEL LIMITED & 1 - Petitioner(s)
Versus
UNION OF INDIA & 2 - Respondent(s)

==========

Appearance :
MR DV PARIKH for Petitioner(s) : 1 - 2.
MR JITENDRA MALKAN for Respondent(s) : 1 - 3.

==========

CORAM : HONOURABLE MR.JUSTICE D.A.MEHTA
and
HONOURABLE MS.JUSTICE H.N.DEVANI

Date : 09/12/2005
ORAL JUDGMENT
(Per : HONOURABLE MR.JUSTICE D.A.MEHTA)

1. Heard Mr.D.V.Parikh, learned advocate for the petitioners and Mr.Jitendra Malkan appearing on

behalf of the respondents. RULE. Mr.Malkan waives service of rule and the petition is taken up for final hearing and disposal today.

2. On 19th September, 2005 this Court passed the following order:

> "1. Heard Mr.D.V.Parikh, the learned advocate for the petitioner. It is submitted that the observation to the effect that: "The learned advocate reiterated the submissions already made already made in the reply to the show cause notice" in the order in original dated 20/7/2005, is factually incorrect. That the petitioner has also stated so in paragraph No.13 of the petition that on the said day, Shri Prabhatkumar, Joint Commissioner was holding additional charge and hence, no effective hearing took place. In the circumstances, according to the learned advocate, the impugned order Annexure "F" has been made without granting opportunity of hearing.
>
> 2. In light of the aforesaid averments, notice returnable on 14th October 2004. Mr.Malkan waives service for respondent No.1."

3. Mr.Malkan concedes, under instructions, that the statement made at the Bar and as recorded by this Court as well as the averment made by the petitioner on oath in Paragraph No.13 of the petition remain uncontroverted and he has further instructions to state that the impugned Order-in-Original may be quashed and set aside and the matter may be remanded to the adjudicating authority for decision afresh.

4. In these circumstances, in light of the statement made, it is not necessary to set out facts and contentions in detail. The Order-in-Original dated 20th July, 2005 passed by the adjudicating authority (Annexure-F) is hereby quashed and set aside. The matter is restored to the file of the adjudicating authority, who is directed to grant proper and reasonable opportunity of hearing to the petitioner before framing a fresh order in accordance with law.

5. Rule is made absolute. The petition is allowed accordingly.

6. Mr.M.R.R. Reddy, Joint Commissioner and Mr.Sanjay Rathi, Joint Commissioner, have respectively filed affidavits dated 13th October, 2005 and 29th November, 2005 without specifically dealing with the issue raised and recorded by the Court in its order dated 19th September, 2005. In the circumstances, each of the officers to pay costs quantified at Rs.1,000/- (Rupees One thousand) per head to the petitioner. The respondent authority, in the first instance, shall pay the costs to the petitioner within a period of fortnight from today and recover the same from each of the officers personally.

Sd/-
[D.A. MEHTA, J]

Sd/-
[H.N. DEVANI, J]

***

*Bhavesh**